

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

<b>In re:</b>	)	
	)	Chapter 11
<b>LTL MANAGEMENT LLC,<sup>1</sup></b>	)	
	)	Case No. 21-30589 (JCW)
<b>Debtor.</b>	)	
_____	)	

**RESPONSE OF THE MESOTHELIOMA GROUP ON BEHALF OF  
CREDITORS IN SUPPORT OF MOTIONS OF BANKRUPTCY  
ADMINISTRATOR AND MDL PLAINTIFFS' STEERING COMMITTEE TO  
TRANSFER VENUE OF BANKRUPTCY CASE PURSUANT TO  
28 U.S.C. § 1412 AND FED R. BANKR. P. 1014(a)(1)  
IN THE INTEREST OF JUSTICE OR FOR THE  
CONVENIENCE OF PARTIES**

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<sup>1</sup> The last four digits of the Debtor's taxpayer identification number are 6622. The Debtor's address is 501 George Street, New Brunswick, New Jersey 08933.

**TABLE OF CONTENTS**

<b>INTRODUCTION.....</b>	<b>1</b>
<b>ARGUMENT.....</b>	<b>2</b>
I. For mesothelioma claimants, transfer to New Jersey is amply warranted under the CORCO factors and the “interest of justice” standard.....	3
II. The Debtor’s manufactured ties to North Carolina are marginal at best, and allowing its bankruptcy to remain in this district would compromise the interest of justice. ....	9
III. This Case Should Not Be Transferred to Delaware. ....	10
<b>RESERVATION OF RIGHTS.....</b>	<b>12</b>
<b>CONCLUSION .....</b>	<b>13</b>

## **TABLE OF AUTHORITIES**

### **Cases**

<u>Becker v. Baron Bros., Coliseum Auto Parts, Inc.</u> , 649 A.2d 613 (N.J. 1994) .....	8
<u>Beshada v. Johns-Manville Products Corp.</u> , 447 A.2d 539 (N.J. 1982) .....	8
<u>Coffman v. Keene Corp.</u> , 628 A.2d 710 (N.J. 1993) .....	8
<u>Etheridge, et al. v. Johnson &amp; Johnson et al.</u> , Case No. 19-01189(KCF) (D.N.J.).....	5
<u>Fischer v. Johns-Manville Corp.</u> , 512 A.2d 466 (N.J. 1986).....	8
<u>Hannah v. Johnson &amp; Johnson Inc.</u> , Case No. 18-10319, 2020 WL 3497010 (D.N.J. June 29, 2020) .....	5
<u>Hirschfeld v. Beckerle et al.</u> , 3:18-cv-14796-FLW-DEA (D.N.J.).....	5
<u>In re Accutane Litig.</u> , 191 A.3d 560 (N.J. 2018) .....	9
<u>In re Commonwealth Oil Ref. Co.</u> , 596 F.2d 1239 (5th Cir. 1979).....	2
<u>In re Enron Corp.</u> , 274 B.R. 327 (Bankr. S.D.N.Y. 2002).....	2
<u>In re Grand Dakota Partners, LLC</u> , 573 B.R. 197 (Bankr. W.D.N.C. 2017).....	2, 10
<u>In re Imerys Talc Am., Inc.</u> , No. 19-MC-103 (MN), 2019 WL 3253366 (D. Del. July 19, 2019) .....	11, 12
<u>In re Patriot Coal Corp.</u> , 482 B.R. 718 (Bankr. S.D.N.Y. 2012) .....	3
<u>Kaenzig v. Charles B. Chrystal, Inc., et al.</u> , No. MID-L-4873-12-AS (N.J. Super.) .....	4
<u>Landrigan v. Celotex Corp.</u> , 605 A.2d 1079 (N.J. 1992).....	8
<u>Rowe v. Bell &amp; Gossett Company</u> , 218 A.3d 784 (N.J. 2019).....	8
<u>Theer v. Philip Carey Co.</u> , 628 A.2d 724 (N.J. 1993) .....	8
<u>Whelan v. Armstrong International Inc.</u> , 231 A.3d 640 (N.J. 2020) .....	8

### **Statutes**

28 U.S.C. § 1412.....	2
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### **Other Authorities**

FDA, Baby powder manufacturer voluntarily recalls products for asbestos, <a href="https://www.fda.gov/news-events/press-announcements/baby-powder-manufacturer-voluntarily-recalls-products-asbestos">https://www.fda.gov/news-events/press-announcements/baby-powder-manufacturer-voluntarily-recalls-products-asbestos</a> (Oct. 18, 2019) .....	4
Jeb Barnes, Dust-Up: Asbestos Litigation and the Failure of Commonsense Policy Reform (2011).....	8
Johnson & Johnson, Annual Report (Form 10-K) (Feb. 22, 2021) .....	12

KCIC, Asbestos Litigation: 2020 Year in Review (2020).....	9
New Jersey Courts, Updated Judiciary Mass Tort (Non-Asbestos) Resource Book Developed for Wider Audience (Feb. 15, 2007).....	8
Supreme Court of New Jersey, Notice to the Bar (April 11, 2008).....	9
Tina Bellon, <u>J&amp;J, Imerys unit must pay \$117 million in N.J. asbestos cancer case</u> , Reuters, Apr. 11, 2018, <a href="https://reut.rs/3jWUpKu">https://reut.rs/3jWUpKu</a> .....	4

## INTRODUCTION

1. This response is submitted by the law firms of Maune Raichle Hartley French & Mudd, LLC; Levy Konigsberg LLP; Kazan, McLain, Satterly & Greenwood; and Weitz & Luxenberg P.C.<sup>2</sup> (the “Mesothelioma Group”), in support of the *Motion of Bankruptcy Administrator to Transfer Venue of Bankruptcy Case Pursuant to 28 U.S.C. § 1412 and Fed. R. Bankr. P. 1014(a)(1) in the Interest of Justice or for the Convenience of Parties* (“the Transfer Motion”) [ECF No. 205] and the *Motion of the MDL Plaintiff’s Steering Committee to Transfer Venue Pursuant to 28 U.S.C. § 1412 and Joinder in Bankruptcy Administrator’s Motion to Transfer Venue* (the “PSC Motion”) [ECF No. 235].

2. The motions to transfer should be granted and this bankruptcy case transferred to the District of New Jersey.

3. The firms in the Mesothelioma Group represent the vast majority of mesothelioma victims with pending talc-related actions. The Debtor’s stay motion represents that there are approximately 430 such cases “pending in New Jersey, California, Illinois, Missouri, New York, and Ohio”—but not, notably, in North Carolina.<sup>3</sup>

4. This Court correctly noted serious venue concerns with North Carolina and the important factors weighing in favor of a New Jersey forum in both its comments at the first-day

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<sup>2</sup> The law firms submit this memorandum for practical and procedural purposes only, and this submission does not constitute any acceptance of service or waiver of rights regarding notice and service.

<sup>3</sup> *Debtor’s Motion for an Order (I) Declaring that the Automatic Stay Applies to Certain Actions Against Non-Debtors or (II) Preliminarily Enjoining Such Actions and (III) Granting A Temporary Restraining Order Pending a Final Hearing*, Case No. 21-30589 (JCW), Adv. Pro. No. 21-03032 (JCW), ECF No. 2, at 14. In the Informational Brief filed on October 14, 2021 as Doc. 3 in Case No. 21-30589 (the “Informational Brief”), the Debtor further stated: “At the time of filing, one or more mesothelioma cases are pending in the state courts of each of the following: Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Oklahoma, Rhode Island, South Carolina, Texas, and Washington.” Informational Brief, at 126 n.470.

hearing on October 20 and its show-cause order entered on October 26, 2021 as Doc. 208 in Case No. 21-30589 (“Show Cause Order”).

5. The Bankruptcy Administrator’s Transfer Motion makes an overwhelming showing that the Court should transfer this bankruptcy case to the District of New Jersey in the interest of justice or for the convenience of the parties. The PSC Motion provides further persuasive arguments in favor of transfer. LTL’s bankruptcy petition has effectively brought the New Jersey Talc MDL within the jurisdiction of this Court. It would be more appropriate to return the MDL to New Jersey.

6. The Mesothelioma Group fully agrees with, and joins in, those motions. It endeavors not to duplicate their arguments. Rather, it files this separate response to amplify the point that New Jersey is the appropriate bankruptcy venue for mesothelioma claimants as well.

### **ARGUMENT**

7. This Court applies the six “CORCO” factors established in In re Commonwealth Oil Ref. Co., 596 F.2d 1239, 1247 (5th Cir. 1979), in assessing whether transfer serves the convenience of the parties. See, e.g., In re Grand Dakota Partners, LLC, 573 B.R. 197, 201–02 (Bankr. W.D.N.C. 2017) (applying the six CORCO factors). The CORCO factors include (1) the proximity of creditors of every kind to the court; (2) the proximity of the Debtor to the court; (3) the proximity of the witnesses necessary to the administration of the estate; (4) the location of the assets; (5) the economic administration of the estate; and (6) the necessity for ancillary administration if a liquidation should occur. CORCO, 596 F.2d at 1247.

8. The “interest of justice” prong of 28 U.S.C. § 1412, meanwhile, “is a broad and flexible standard that is applied based on the facts and circumstances of each case.” In re Enron Corp., 274 B.R. 327, 349 (Bankr. S.D.N.Y. 2002). Unreasonable forum shopping is an important

factor in this analysis. In re Patriot Coal Corp., 482 B.R. 718, 726–28, 738 (Bankr. S.D.N.Y. 2012).

9. The Bankruptcy Administrator’s Transfer Motion meticulously addresses each standard and shows that each supports transfer to New Jersey. The PSC Motion confirms that conclusion. Both the Transfer Motion and the PSC Motion are correct.

**I. For mesothelioma claimants, transfer to New Jersey is amply warranted under the CORCO factors and the “interest of justice” standard.**

10. The convenience of the parties and the well-developed features of New Jersey law and judicial procedure for addressing mesothelioma claims all strongly support transfer to New Jersey, under either the “convenience of the parties” or “interest of justice” standard.

11. New Jersey is far and away the most convenient venue for the Debtor’s creditors. New Jersey is already the site of tens of thousands of talc-based suits against the Debtor’s predecessor, Johnson & Johnson Consumer Inc. (“Old JJCI”); its parent, Johnson & Johnson (“J&J”); and its affiliates. The District of New Jersey currently oversees an MDL regarding claims that use of J&J’s talc products caused ovarian cancer. As this Court has observed, “few, if any, of the talc-related claims against the Debtor are pending in the Western District of North Carolina. Approximately 35,000 cases (of approximately 38,000), the overwhelming number of cases against the Debtor, are pending in federal multi-district litigation in New Jersey.” Show Cause Order, at 2. J&J and Old JJCI themselves have noted that the District of New Jersey was specifically selected by the United States Judicial Panel on Multidistrict Litigation for the purposes of pretrial coordination: “The purposes of this transfer and ‘centralization’ process is to avoid duplication of discovery, to prevent inconsistent pretrial rulings, and to conserve the resources of

the parties, their counsel, and the judiciary.”<sup>4</sup> Given the District of New Jersey’s experience with talc-based claims, the Bankruptcy Administrator is correct that no forum is more qualified to conduct an estimation trial of the Debtor’s liabilities, should that prove necessary.

12. New Jersey is an especially appropriate forum with respect to talc-related mesothelioma claimants in particular. The first cosmetic talc mesothelioma case tried to verdict in the United States was tried in New Jersey.<sup>5</sup> Of the 53 verdicts in favor of mesothelioma talc plaintiffs nationwide, 16 were secured in New Jersey. California, on the opposite side of the country from J&J’s headquarters, is the only state with more. And since a 2019 public announcement by the Food and Drug Administration (“FDA”) finding asbestos in Johnson’s Baby Powder,<sup>6</sup> more than half of all mesothelioma talc verdicts in the country have occurred in New Jersey:

Case	Jurisdiction	Year
Barden v. J&J, et al.	NJ	2020
Etheridge v. J&J, et al.	NJ	2020
McNeill v. J&J, et al.	NJ	2020
Ronning v. J&J, et al.	NJ	2020
Mure-Cabrera v. J&J, et al.	FL	2020
Prudencio v. J&J, et al.	CA	2021
Johnson v. J&J, et al.	CA	2021

13. Moreover, in 2019, the New Jersey Bankruptcy Court and the District of New Jersey oversaw J&J and Old JJCI’s removal of and pursuit of a channeling injunction covering

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<sup>4</sup> *Omnibus Reply in Support of J&J’s Motion for Entry of Order Modifying Automatic Stay to Implement Talc Litigation Protocol* (“Omnibus Reply”), Imerys Talc America, Inc., et al., Case No. 19-10289 (LSS) (D. Del.), ECF No. 1769, at 8 n.10.

<sup>5</sup> See generally Kaenzig v. Charles B. Chrystal, Inc., et al., No. MID-L-4873-12-AS (N.J. Super.); see also Tina Bellon, J&J, Imerys unit must pay \$117 million in N.J. asbestos cancer case, Reuters, Apr. 11, 2018, <https://reut.rs/3jWUpKu> (describing another New Jersey case, Lanzo, as the “second trial nationally to focus on claims that J&J’s talc products contained asbestos”).

<sup>6</sup> FDA, Baby powder manufacturer voluntarily recalls products for asbestos, <https://www.fda.gov/news-events/press-announcements/baby-powder-manufacturer-voluntarily-recalls-products-asbestos> (Oct. 18, 2019).



hundreds of mesothelioma and non-MDL ovarian cancer cases. The courts remanded those matters back to New Jersey state courts.<sup>7</sup>

14. New Jersey has additional connections to this matter. New Jersey is home to an ongoing state-court action brought by insurers disputing their obligations to reimburse J&J and Old JJCI for costs incurred in relation to talc cases. Docket No. MID-L-003563-19, in the Superior Court of Middlesex County, New Jersey. The New Jersey coverage action has a clear nexus to this proceeding, because the Debtor claims that the insurance policies at issue are an asset of the estate.

15. And the District of New Jersey presided over a shareholder derivative action brought by J&J investors who alleged that members of the company's board of directors violated their fiduciary duties by failing to prevent the continued sale of talc-based body powders. Hirschfeld v. Beckerle et al., 3:18-cv-14796-FLW-DEA (D.N.J.).

16. The proximity of the Debtor to New Jersey, meanwhile, is obvious. As this Court has observed, "nearly all the assets and employees of the Debtor, New JJCI, and the Debtor's ultimate parent, J&J, are located in New Jersey. The Debtor has a mailing address of 501 George St., New Brunswick, NJ 08933." Show Cause Order, at 2. Google Streetview shows the following signage at the Debtor's mailing address:

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<sup>7</sup> See, Hannah v. Johnson & Johnson Inc., Case No. 18-10319, 2020 WL 3497010, at \*25 (D.N.J. June 29, 2020); Etheridge, et al. v. Johnson & Johnson et al., ECF No. 34, Case No. 19-01189(KCF) (D.N.J.) (June 19, 2019).



17. As the Court further recognized, “[t]he only employees of the Debtor are employees of Johnson & Johnson Services, Inc., a New Jersey corporation, that have been “seconded” to the Debtor. These employees continue to work in New Jersey.” Show Cause Order, at 2.

18. The documents effectuating the restructuring bear out this Court’s observation. Chenango Zero, Chenango One, Chenango Two, Currahee Holding Company, and the Debtor all list New Jersey as their principal place of business; Chenango One and Chenango Two both list “initial managers” with New Jersey addresses; the sole person executing the Articles of Organization for the Debtor is lists a New Jersey address; and Robert Wuesthoff—a Johnson & Johnson executive based in New Jersey—is designated as the president of Chenango One. [Ex. A to Abel Decl., ECF No. 206, at 6; *id.* Ex. B, at 13, 15, 18, 23, 25, 27; Chenango Two Certificate of Merger, Ex. 2, at 1]. To be clear: Almost every document effecting the divisive merger and giving birth to Debtor lists significant ties to New Jersey. North Carolina, of course, does not appear until the final step: conversion, followed immediately by bankruptcy.

19. John Kim’s testimony further supports transfer to New Jersey. Although Mr. Kim is the Debtor’s Chief Legal Officer by title, the Debtor does not actually employ Mr. Kim. Rather, he is a Johnson & Johnson Services, Inc. employee who lives in New Jersey and is “seconded” to the Debtor for purposes of this litigation. Oct. 22 Hearing Transcript, Ex. 1, at 44:1–18. As Mr. Kim conceded, Dr. John Hopkins, a long-time corporate representative for J&J in talc litigation,

previously testified that the parent company—which is again, based in New Jersey—made “all health and safety policy decisions with regard to asbestos and talc products.” Id. at 88:4–9; Hopkins Transcript, Ex. 7, at 20:11–17. LTL board members Bob Wuesthoff and Richard Dickinson are also based in New Jersey. Kim Transcript, Ex. 4, at 30:18–31:13; see also Lisman Transcript, Ex. 8, at 192:17–193:9 (testimony of J&J Vice President and Assistant Corporate Controller Adam Lisman that he was not aware of any relationships between North Carolina and LTL board members Russell Deyon, Robert Wuesthoff, and Richard Dickinson).

20. In fact, Mr. Kim and Mr. Wuesthoff—LTL’s chief legal officer and president, respectively—both continue to use Johnson & Johnson email addresses. [Funding Agreement, Annex 2 to First Day Decl., ECF No. 5, at 13 (listing Mr. Wuesthoff’s email address as “rwheustho@its.jnj.com” and Mr. Kim’s as “JKim8@its.jnj.com”)].

21. The location of witnesses, experts, documents, and counsel also favors New Jersey: Of the eleven J&J and Old JJCI witnesses deposed in previous mesothelioma cases, eight lived in New Jersey. None lived in North Carolina. New Jersey, not North Carolina, is the center of J&J’s operations. Dr. Ed Kuffner, chief medical officer for both Old and New JJCI, could not name any significant medical safety decision regarding talc made in North Carolina. Kuffner Transcript, Ex. 3, at 26:20–23.

22. J&J Senior Legal Records Coordinator Susan Schirger-Ward testified that the company’s records room and records vault are both located in New Brunswick, New Jersey. Schirger-Ward Transcript, Ex. 6, at 11:3–6, 44:8–16.

23. The majority of expert witnesses in previous talc mesothelioma cases are clustered in California or on the East Coast. As compared to North Carolina, then, New Jersey is a far more convenient venue.

24. Finally, six out of the nine law firms that have gone to trial against J&J and affiliates in previous talc mesothelioma cases have offices in New Jersey or attorneys licensed there.

25. New Jersey law and judicial procedure also support transfer to New Jersey. As the Court is aware, mesothelioma is a signature malignant tumor linked to asbestos exposure. Due to its industrial history, New Jersey is among the most active states for mesothelioma and asbestos claims. As a result, New Jersey has well-developed judicial procedures and a well-developed legal jurisprudence for addressing asbestos claims and mesothelioma claims in particular. Asbestos exposure in New Jersey frequently occurred at the state's manufacturing plants, power generation facilities, oil refineries, and shipyards. New Jersey was considered a hub for asbestos litigation even before the first asbestos bankruptcy was filed by a New Jersey company, Johns-Manville, in 1982. New Jersey attorney Karl Asch, for example, in 1978 discovered the "Sumner Simpson Papers" during litigation against Raybestos-Manhattan. Those papers "contained a treasure trove of correspondence . . . which showed that [leading asbestos manufacturing companies] not only knew about the risks of asbestos for decades but also had commissioned studies on its dangers and concealed the results."<sup>8</sup>

26. This history and experience put the New Jersey courts at the forefront of mass tort and asbestos litigation. New Jersey is among the most active states for mesothelioma suits, and it has for decades been a "national leader" for evaluating and adjudicating mass torts, including those involving asbestos.<sup>9</sup>

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<sup>8</sup> Jeb Barnes, *Dust-Up: Asbestos Litigation and the Failure of Commonsense Policy Reform* 25–26 (2011).

<sup>9</sup> See New Jersey Courts, *Updated Judiciary Mass Tort (Non-Asbestos) Resource Book* Developed for Wider Audience (Feb. 15, 2007). Important New Jersey asbestos cases include Whelan v. Armstrong International Inc., 231 A.3d 640 (N.J. 2020); Rowe v. Bell & Gossett Company, 218 A.3d 784 (N.J. 2019); Becker v. Baron Bros., Coliseum Auto Parts, Inc., 649 A.2d 613 (N.J. 1994); Theer v. Philip Carey Co., 628 A.2d 724 (N.J. 1993); Coffman v. Keene Corp., 628 A.2d 710 (N.J. 1993); Landrigan v. Celotex Corp., 605 A.2d 1079 (N.J. 1992); Fischer v. Johns-Manville Corp., 512 A.2d 466 (N.J. 1986); Beshada v. Johns-Manville Products Corp., 447 A.2d 539 (N.J. 1982).

27. Additionally, several New Jersey companies facing asbestos litigation have filed for bankruptcy in the District of New Jersey, including Case Nos. 18-27963 (Duro Dyne National Corp.), 13-37149 (Consolidated Aluminum Corporation), 11-15110-MBK (State Insulation Corp), 03-51524 (Congoleum Corp.), 03-26723-MS (The Muralo Co.), 01-30135 (G-I Holdings), 01-38790 (same), and 00-41610 (Burns & Roe). Many of the resulting asbestos trusts use the Princeton, New Jersey-based Versus to process claims.

28. In 2008, the New Jersey Supreme Court designated all state-court asbestos litigation as a mass tort. Supreme Court of New Jersey, Notice to the Bar (April 11, 2008). Mesothelioma and other cases filed in the state are now tried at the courthouse located in New Brunswick—down the road from J&J’s headquarters and the Debtor’s mailing address—and, pre-COVID-19 pandemic, could often get to trial within a year. In 2020, Middlesex, New Jersey was one of the top ten jurisdictions for mesothelioma filings.<sup>10</sup>

29. New Jersey local rules permit the consolidation of multicounty litigation, which is relatively unusual in state courts. Similar in many ways to MDL procedures, those rules facilitate the transfer of cases not just from multiple counties, but also from states throughout the country. See, e.g., In re Accutane Litig., 191 A.3d 560 (N.J. 2018) (mass tort multicounty litigation involving over two thousand plaintiffs). The advantages of the New Jersey forum are clear.

**II. The Debtor’s manufactured ties to North Carolina are marginal at best, and allowing its bankruptcy to remain in this district would compromise the interest of justice.**

30. The Bankruptcy Administrator’s statement that “the Debtor’s connections to North Carolina are limited, manufactured, and recent,” could not be truer. Transfer Motion, at 9. The Debtor has not explained (and cannot explain) why its “Texas Two Step” required it to be

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<sup>10</sup> KCIC, Asbestos Litigation: 2020 Year in Review, 9 (2020).

domesticated in North Carolina. It could just have easily manufactured venue in any other State or territory of the United States. “[T]he weight afforded to a debtor’s choice is diminished when the ‘choice of forum is not directly related to the operative, underlying facts of the case.’” In re Grand Dakota Partners, LLC, 573 B.R. at 203.

31. The timeline of the Debtor’s (i) formation, (ii) conversion from a Texas LLC to a North Carolina entity, and (iii) almost immediate filing of a voluntary petition is itself sufficient to show that any ties between the Debtor and North Carolina are tenuous at best. But that only scratches the surface. The Debtor manufactured all of its purported connections to North Carolina. As Mr. Kim testified, the Debtor does not even maintain an office in the state. Oct. 22 Hearing Transcript, Ex. 1, 45:2–8. It has minimal and intangible assets in North Carolina, no business operations in the state, and no officers, employees, or other persons associated with the entity who work there. Id. at 46:9–12. In short, there is not a single tie between the Debtor and North Carolina—excepting, of course, those manufactured to support the Debtor’s incorporation there and the bankruptcy petition that followed two days later.

32. Venue was invented by the Debtor on the eve of filing. This backdrop demands that the Debtor’s preference be given no weight. It would run counter to the interest of justice to permit the Debtor to reap any benefits from manipulating the venue provisions of the Bankruptcy Code.

### **III. This Case Should Not Be Transferred to Delaware.**

33. Delaware is not an appropriate forum for this case. The creditors, the Debtor, the Debtor’s assets, and J&J itself all have their most significant contacts with New Jersey, rather than Delaware.

34. Arnold & Itkin LLP argues that the District of Delaware is “the appropriate transferee Court for this case” [ECF No. 312, at 4]. But its primary rationale is that the Delaware

bankruptcy court is overseeing the Imerys and Cyprus Chapter 11 proceedings. Those cases are separate proceedings and are not appropriate forums for resolving the issues presented here.

35. This is a “solvent bankruptcy” case arising out of an abusive Texas Two-Step merger. Imerys and Cyprus, meanwhile, are standard bankruptcies. They would only be derailed even further if this matter were combined with them. This case involves special issues not present in the existing Delaware bankruptcies. For example, this case will likely entail application by the creditors’ committee to the bankruptcy court for derivative standing to pursue a fraudulent transfer claim. Litigating that claim will require significant discovery and court time. If that litigation occurred in the Imerys and Cyprus bankruptcies, it would only serve to delay them even further—an undesirable result given the problems already facing the Imerys and Cyprus proceedings. As the Debtor noted at the first-day hearing, Imerys’s reorganization plan recently failed to achieve the necessary votes. First-Day Hearing Transcript, Ex. 9, at 39:22–40:16. There is thus no reason that the Delaware court supervising the Imerys bankruptcy is better suited to resolve this case than a New Jersey court and, indeed, every reason to believe it would be worse.

36. When J&J previously sought to fix venue for approximately 2,400 talc actions in the District of Delaware, Judge Maryellen Noreika denied that request and explained that doing otherwise would “grind the wheels of justice to a halt” by adding almost five times the court’s annual volume of cases to “an already-busy docket.” In re Imerys Talc Am., Inc., No. 19-MC-103 (MN), 2019 WL 3253366, at \*8 (D. Del. July 19, 2019). This bankruptcy involves even more claimants.

37. After Judge Noreika’s ruling, J&J switched positions and argued against the Imerys bankruptcy case in Delaware as a forum for the resolution of talc claims. J&J maintained that the automatic stay should be lifted so that it could “defend the safety of its products (and the core

causation issues) in open court.” Omnibus Reply, at 2. J&J warned that “bankruptcy cannot be used for improper purposes,” *id.* at 10, and criticized the attempt by the holding company of Imerys, non-debtor Imerys S.A. Group, to seek the benefits of the channeling injunction and third-party releases through the Imerys Case. J&J cited the need to provide claimants with the opportunity “to litigate outside of bankruptcy,” “in lawsuits they already have ongoing against or will commence against J&J,” where each would enjoy the “right to her or his day in court and potential for full recovery.” *Id.* at 32. It went so far as to state that talc suits should proceed outside of the Delaware bankruptcy because “determinations of various tort issues will require consideration of various state laws” and “modification of the automatic stay [would] promote judicial economy by resolving claims against the Debtor in the forum that is most familiar with the law associated with a resolution of such claims.”<sup>11 12</sup>

38. After J&J argued so vehemently against the Delaware bankruptcy forum, neither J&J nor the Debtor should be heard to argue for transfer to Delaware.

### **RESERVATION OF RIGHTS**

39. The Mesothelioma Group reserves the right to plead and argue at a later date that Debtor’s filing of both its bankruptcy petition and the associated adversary proceeding were improper and should be dismissed based on the pre-petition transactions described herein, or for any other reason that justifies dismissal.

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<sup>11</sup> *Johnson & Johnson’s Motion Pursuant to 11 U.S.C. § 362(d)(1), Fed. R. Bankr. P. 4001, and Local Bankruptcy Rule 4001-1 for Entry of Order Modifying Automatic Stay to Permit J&J to Send Notice Assuming Defense of Certain Talc Claims and to Implement Talc Litigation Protocol*, Imerys Case, ECF No. 1567, at 25–26.

<sup>12</sup> J&J has also implicitly admitted that New Jersey is a more appropriate forum than Delaware for resolution of talc claims. In a recent corporate filing, it stated that talc suits against the company “have been primarily filed in state courts in Missouri, New Jersey[,] and California”—not Delaware, and not North Carolina. Johnson & Johnson, Annual Report (Form 10-K), at 86 (Feb. 22, 2021).



**CONCLUSION**

40. For the reasons stated, the Mesothelioma Group respectfully requests that the Court grant the motions of the Bankruptcy Administrator and the MDL plaintiffs' steering committee and transfer this matter to New Jersey.

Respectfully submitted this the 5<sup>th</sup> day of November 2021.

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

<b>In re:</b>	)	
	)	
<b>LTL MANAGEMENT LLC,<sup>1</sup></b>	)	Chapter 11
	)	
<b>Debtor.</b>	)	Case No. 21-30589 (JCW)
	)	

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**DECLARATION OF THOMAS W. WALDREP, JR.  
IN SUPPORT OF RESPONSE OF THE MESOTHELIOMA GROUP ON BEHALF  
OF CREDITORS IN SUPPORT OF MOTIONS OF BANKRUPTCY  
ADMINISTRATOR AND MDL PLAINTIFFS' STEERING COMMITTEE TO  
TRANSFER VENUE OF BANKRUPTCY CASE PURSUANT TO 28 U.S.C. § 1412  
AND FED R. BANKR. P. 1014(a)(1) IN THE INTEREST OF JUSTICE  
OR FOR THE CONVENIENCE OF PARTIES**

---

I, Thomas W. Waldrep, Jr., pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am a member in good standing of the bar of the State of North Carolina and am admitted to practice in North Carolina and the United States District Court of the Western District of North Carolina.
2. My office is located at 370 Knollwood Street, Suite 600, Winston-Salem, NC 27103.
3. I submit this Declaration in support of the *Response of the Mesothelioma Group on Behalf of Creditors in Support of Motions of Bankruptcy Administrator and MDL Plaintiffs' Steering Committee to Transfer Venue of Bankruptcy Case Pursuant to 28 U.S.C. § 1412 and Fed R. Bankr. P. 1014(a)(1) in the Interest of Justice or for the Convenience of Parties* (the "Response") filed contemporaneously herewith.

---

<sup>1</sup> The last four digits of the Debtor's taxpayer identification number are 6622. The Debtor's address is 501 George Street, New Brunswick, New Jersey 08933.

4. Annexed hereto as **Exhibit 1** are selected excerpts from the transcript of the October 22, 2021 hearing held by this Court in the above-captioned case.

5. Annexed hereto as **Exhibit 2** is the Certificate of Merger of Chenango Two LLC with and into Currahee Holding Company Inc. filed with the Office of the Secretary of State of Texas on October 12, 2021.

6. Annexed hereto as **Exhibit 3** are selected excerpts from the transcript of the deposition of Edwin K. Kuffner, M.D., that took place in the above-captioned case on October 30, 2021.

7. Annexed hereto as **Exhibit 4** are selected excerpts from the transcript of the deposition of John Kim that took place in the above-captioned case on October 31, 2021.

8. Annexed hereto as **Exhibit 5** are selected excerpts from the transcript of the October 20, 2021 hearing held by this Court in the above-captioned case.

9. Annexed hereto as **Exhibit 6** are selected excerpts from the transcript of the deposition of Susan Schirger-Ward that took place in the above-captioned case on October 31, 2021.

10. Annexed hereto as **Exhibit 7** are selected excerpts from the transcript of trial testimony given on July 22, 2019, in *Barden v. Brenntag North America, et al.*, Case No. L-6040-17 (N.J. Super. Ct.).

11. Annexed hereto as **Exhibit 8** are selected excerpts from the rough-draft transcript of the deposition of Adam Lisman that took place in the above-captioned case on October 30, 2021.

Dated: Charlotte, North Carolina  
November 5, 2021

/s/ Thomas W. Waldrep, Jr.  
Thomas W. Waldrep, Jr.

# Exhibit 1



KIM - CROSS

44

1 Q So you worked for Johnson & Johnson as a lawyer in New  
2 Brunswick, New Jersey from April of 2000 all the way up until  
3 approximately October 10th of 2021, correct?

4 A Correct.

5 Q And on October 10th of 2021 you then went to work for an  
6 entity named LTL Management LLC, correct?

7 A Technically, I worked for Johnson & Johnson Services, Inc.  
8 seconded to LTL Management.

9 Q Are you currently an employee or officer of LTL Management?  
10 Yes or no.

11 A I am an officer as seconded by Johnson & Johnson Services.

12 Q Where do you live, sir?

13 A I live in Princeton, New Jersey.

14 Q And how long have you lived in New Jersey?

15 A I think around 2002, I want to say. I don't -- I'm sorry I  
16 can't be more precise, yeah.

17 Q Have you ever lived in North Carolina?

18 A No, I have not.

19 Q Have you ever visited North Carolina before you came down  
20 here for the bankruptcy proceedings?

21 A Several times, yes.

22 Q Several times?

23 A Yes.

24 Q For business or pleasure?

25 A Mostly for business.

KIM - CROSS

1 Q Okay.

2 And, sir, where is LTL Management LLC's office in North  
3 Carolina?

4 A Oh, LLC. The -- LTL does not have an office in North  
5 Carolina.

6 Q Where do formal notices for LTL Management LLC get sent?

7 A I believe it's 501 George Street in New Brunswick, New  
8 Jersey.

9 Q And other than you, sir, who are the other officers of LTL  
10 Management?

11 A There's a President, Bob Wuesthoff, and there's a CFO,  
12 Richard Dickinson.

13 Q And Mr. Wuesthoff, where does he work?

14 A Since COVID, he's been working out of Florida.

15 Q Okay. Is, is he someone who has worked in New Jersey for  
16 many years?

17 A I actually, I don't know Mr. Wuesthoff's background on  
18 where he, he worked. He was a former J&J -- he is -- he was a  
19 Johnson & Johnson, one of the Johnson & Johnson entity  
20 employees and I -- I -- I actually don't know where his office  
21 was.

22 Q Okay. To be clear, did Mr. Wuesthoff work at Johnson &  
23 Johnson in New Jersey at some point?

24 A I think that might be true. He, he may have worked in  
25 Pennsylvania, also. I'm just not clear on where, what his past

KIM - CROSS

1 history was.

2 Q You have no evidence that Mr. Wuesthoff ever worked in  
3 North Carolina, correct?

4 A I don't -- I, I believe he never worked in North Carolina.

5 Q Okay.

6 And this Mr. Dickinson, another officer from LTL Management  
7 LLC, where does he work?

8 A He works in New Jersey.

9 Q Okay. And can you identify any officer, employee, anyone  
10 associated with LTL Management LLC that actually works in North  
11 Carolina?

12 A No.

13 Q Sir, you in 2001 were Senior Counsel in the Litigation  
14 Group at Johnson & Johnson, correct?

15 A Correct.

16 Q And you were involved in product liability litigation and  
17 supervising that at Johnson & Johnson from 2001 all the way up  
18 until about ten days ago, correct?

19 A Yes. Well, I, I had a change -- yeah. So I also became  
20 head of Product Liability during that span.

21 Q Right. So just to be clear for the Court, you became the  
22 head lawyer for Product Liability at Johnson & Johnson in what  
23 year?

24 A I'm going to have to look back at my declaration.

25 Q Could you give us your best estimate?



KIM - CROSS

88

1 A Yeah. I would just quibble with "all" -- "all" -- "all."  
2 'Cause I, I have to assume there are some decisions that are  
3 made elsewhere. But I --

4 Q So, Mr. Kim, you assume that some decisions must be, must  
5 have been made elsewhere, but your corporate representative  
6 says all health and safety policy decisions with regard to  
7 asbestos and talc products were made by the parent company,  
8 Johnson & Johnson? Yes or no.

9 A That's what he said, yes.

10 Q I mean, certainly Johnson & Johnson -- well, you know their  
11 name was always on the container, right?

12 A I, I don't think so. It's -- I know Johnson's is. I, I  
13 don't know that Johnson & Johnson has always been there.

14 Q Okay. We'll take a look at that issue. But, but --

15 A Yeah.

16 Q -- Johnson & Johnson is the parent company. As, as the  
17 head company certainly it had the authority the entire time  
18 Johnson's Baby Powder was sold to require warnings on those  
19 products, correct?

20 A I'm not sure technically, you know. It definitely had a --  
21 had -- could weigh in on that, yes, absolutely.

22 MR. BLOCK: Let's go to the next slide.

23 BY MR. BLOCK:

24 Q I mean, the next slide is testimony again from Dr. Hopkins.  
25 This is from another trial, May 3, 2019, at Page 7752, Line 11.

# Exhibit 2

FILED  
In the Office of the  
Secretary of State of Texas

OCT 12 2021

Corporations Section

**CERTIFICATE OF MERGER**  
**OF**  
**CHENANGO TWO LLC**  
**WITH AND INTO**  
**CURRAHEE HOLDING COMPANY INC.**  
**(Texas)**

**October 12, 2021**

This CERTIFICATE OF MERGER is being duly executed and filed by the undersigned to effect the merger of CURRAHEE HOLDING COMPANY INC., a New Jersey corporation ("Currahee Holdco"), and CHENANGO TWO LLC, a Texas limited liability company ("Chenango Two"), pursuant to Chapters 4 and 10 of the Texas Business Organizations Code (the "TBOC"). The undersigned hereby certify the following information in connection with the merger of Chenango Two with and into Currahee Holdco (the "Merger"):

**Merging Entity Information**

1. Currahee Holdco is a corporation. It is incorporated under the laws of the State of New Jersey. Its principal place of business is 199 Grandview Road, Skillman, New Jersey 08558. Currahee Holdco will survive the Merger and, pursuant to the Plan of Merger, the name of the surviving entity will be "Johnson & Johnson Consumer Inc."

2. Chenango Two is a limited liability company. It is organized under the laws of the State of Texas. Its principal place of business is 199 Grandview Road, Skillman, New Jersey 08558. Chenango Two will not survive the Merger.

**Plan of Merger**

3. In lieu of providing the plan of merger providing for the Merger (the "Plan of Merger"), Currahee Holdco certifies that:

(a) A signed Plan of Merger is on file at the principal place of business of Currahee Holdco, and the address of such principal place of business is provided in this Certificate of Merger.

(b) On written request, a copy of the Plan of Merger will be furnished without cost by Currahee Holdco to any owner or member of any domestic entity that is a party to the Plan of Merger.

**Approval of Plan of Merger**

4. The Plan of Merger has been approved as required by the laws of the jurisdiction of formation of each entity that is party to the Merger and by the governing documents of those entities.

**Effectiveness of Filing**

5. This Certificate of Merger and the Merger will be effective as of 11:00 a.m. Central Time, on October 12, 2021.


**Tax Certificate**

6. In lieu of the Company providing a tax certificate from the Texas Comptroller of Public Accounts, Currahee Holdco will be liable for the payment of any franchise taxes of Chenango Two required in the State of Texas.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, each of the undersigned has executed this Certificate of Merger as of the date first written above.

**CURRAHEE HOLDING COMPANY INC., a**  
New Jersey corporation

By:   
Name: Michelle Goodridge  
Title: President

**CHENANGO TWO LLC, a Texas limited liability**  
company

By:   
Name: Michelle Goodridge  
Title: President

# Exhibit 3

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

\*\*\*\*\*

In Re Chapter 11  
LTL MANAGEMENT LLC, Case No.  
Debtor. 21-30589(JCW)

\*\*\*\*\*

LTL MANAGEMENT LLC,  
Plaintiff,  
v. Adv. Pro. No.  
21-03032(JCW)

THOSE PARTIES LISTED ON  
APPENDIX A TO COMPLAINT and  
JOHN AND JANES DOES 1-1000,  
Defendants.

\*\*\*\*\*

Remote Deposition of EDWIN K.  
KUFFNER, MD, commencing at 10:03 a.m., on the  
30th of October, 2021, before Maureen  
O'Connor Pollard, Registered Diplomate  
Reporter, Realtime Systems Administrator,  
Certified Shorthand Reporter.

- - -

GOLKOW LITIGATION SERVICES  
877.370.3377 ph/ 917.591.5672 fax  
deps@golkow.com

1 made out of the State of North Carolina?

2 A. I have been to North Carolina  
3 in my duties as the -- within the company in  
4 the time that I've been here I've used  
5 information that I've gathered from  
6 discussions that I've had in North Carolina  
7 to actually shape my understanding of topics  
8 and issues.

9 Q. When is the last time you were  
10 in North Carolina?

11 A. Probably over ten years ago.

12 Q. Okay. And you were chief  
13 medical officer for JJCI over the past  
14 four-plus years, correct?

15 A. Correct.

16 Q. And you were chief medical  
17 officer in charge of talc for the past  
18 four-plus years, correct?

19 A. Correct.

20 Q. And all safety decisions that  
21 you made with respect to the safety of talc  
22 did not occur in North Carolina, true?

23 A. I would say that would be true.

24 Q. Okay. And in fact, you haven't



# Exhibit 4

1 UNITED STATES BANKRUPTCY COURT  
2 WESTERN DISTRICT OF NORTH CAROLINA  
3 CHARLOTTE DIVISION

4 -----  
5 IN RE: :Case No. 21-030589  
6 :  
7 LTL MANAGEMENT LLC, :  
8 :  
9 Debtor. :  
10 -----

11  
12 OCTOBER 31, 2021

13  
14 C O N F I D E N T I A L

15 Remote deposition of JOHN KIM,  
16 ESQUIRE, conducted via Zoom  
17 videoconference, at the location of the  
18 witness, commencing at 10:05 a.m., on the  
19 above date, before Margaret M. Reihl, RPR,  
20 CRR, CCR - NJ.

21 GOLKOW LITIGATION SERVICES  
22 877.370.3377 ph | 917.591.5672 fax  
23 Deps@golkow.com  
24

1 A. You are talking about the meetings  
2 to prepare for this deposition, right?

3 Q. Sure, right now I am.

4 A. No.

5 Q. Was any other J&J employees  
6 present?

7 A. No.

8 Q. Other than the attorneys?

9 A. No. I think I listed everyone I  
10 can remember being present.

11 Q. Did you speak to any LTL employees  
12 in connection with your proposed testimony  
13 either -- well, let's break it down, first at the  
14 first hearing last week?

15 A. I reported to LTL employees about  
16 what was going on in the bankruptcy, including my  
17 testimony.

18 Q. And who did you speak with with  
19 regards to LTL employees?

20 A. I spoke to Rich Dickinson and Rob  
21 Wuesthoff.

22 Q. And Bob Wuesthoff, where is he  
23 located?

24 A. He actually was visiting the

1 offices for LTL business.

2 Q. They are in New Jersey, right?

3 A. In New Jersey, yes. So I actually  
4 had lunch with them.

5 Q. Both Rich and Bob?

6 A. Yes.

7 Q. And are they -- where do they  
8 reside, those two individuals?

9 A. Mr. Wuesthoff resides in Florida,  
10 he has a house in New Jersey as well but he splits  
11 his time between New Jersey and Florida.  
12 Mr. Dickinson lives in New Jersey, I'm not sure  
13 where.

14 Q. And Mr. Dickinson, before he was a  
15 LTL Management employee, was he a J&J employee?

16 A. He was employed by one of the J&J  
17 companies, yes.

18 Q. Which one?

19 A. I'm actually not sure. His role  
20 was in the business development group. I'm not  
21 sure which J&J company actually employed him.

22 Q. Bob, before he worked at LTL he  
23 worked at J&J as well, correct?

24 A. He was at one of the J&J companies

# Exhibit 5

1

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

3	IN RE:	:	Case No. 21-30589-JCW
4	LTL MANAGEMENT LLC,	:	Chapter 11
5	Debtor.	:	Charlotte, North Carolina Wednesday, October 20, 2021
6		:	9:30 a.m.

[illegible]

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE J. CRAIG WHITLEY,  
UNITED STATES BANKRUPTCY JUDGE

10	APPEARANCES:
----	--------------

11	For the Debtor:	Jones Day
		BY: GREGORY M. GORDON, ESQ.
12		DAN B. PRIETO, ESQ.
		AMANDA RUSH, ESQ.
13		MARK W. RASMUSSEN, ESQ.
		2727 North Harwood St., Suite 500
14		Dallas, TX 75201-1515

15	Jones Day BY: ROBERT W. HAMILTON, ESQ.
16	325 John H. McConnell Blvd., #600 Columbus, Ohio 43215

18	Jones Day BY: JAMES M. JONES, ESQ. 250 Vesey Street
19	New York, NY 10281

20	Audio Operator:	COURT PERSONNEL
----	-----------------	-----------------

21	Transcript prepared by:	JANICE RUSSELL TRANSCRIPTS
22		1418 Red Fox Circle
		Severance, CO 80550
23		(757) 422-9089
		trussell31@tdsmail.com

25 | Proceedings recorded by electronic sound recording; transcript  
produced by transcription service.

1 to Old JJCI. They've each filed an adversary proceeding  
2 against Old JJCI and J&J in the Imerys bankruptcy case and they  
3 seek declaratory judgments with respect to certain indemnity  
4 agreements. The debtor and J&J contest the claims in those  
5 adversary proceedings.

6 I also want to mention, your Honor, with respect to  
7 the Imerys and Cyprus filings that JJCI and J&J attempted to  
8 negotiate an agreement with the parties in those cases to  
9 resolve the talc claims against Old JJCI and J&J as part of a  
10 plan in that case, or in those cases and although progress was  
11 made, the parties were not able to reach an agreement. And one  
12 challenge, frankly, in reaching an agreement in Imerys was that  
13 most of the claims related to Johnson's Baby Powder were  
14 asserted against Old JJCI and not Imerys. In fact, of the  
15 38,000 pending talc lawsuits against the debtor as of the  
16 petition date only about 18,000 of them were also against  
17 Imerys.

18 Imerys also has claims related to talc-containing  
19 products of other companies and it's my understanding, your  
20 Honor, that about 20 percent of the Imerys mesothelioma claims  
21 are unrelated to Old JJCI's talc-containing products.

22 As to the status of the Imerys case, your Honor,  
23 there's been no estimation either sought or authorized in that  
24 case. While Imerys proposed a plan of reorganization in that  
25 case, based on a recent ruling by the Delaware Bankruptcy Court

1 -- and it came out either this week or last. I can't remember.  
2 It might be last week -- the court found that the plan did not  
3 receive the requisite votes that were needed and as it turned  
4 out, through discovery voting, voting irregularities were  
5 discovered that resulted in the rejection of about 15,000 votes  
6 and that was enough to turn the outcome of the vote from what  
7 appeared to be an acceptance to a rejection of the plan by the  
8 talc claimants. Old JJCI and J&J opposed that plan because,  
9 among other things, in the view of Old JJCI and J&J through the  
10 trust distribution procedures under that plan the proposal was  
11 to liquidate claims at amounts that J&J and Old JJCI viewed as  
12 grossly inflated and then sought to basically enforce those  
13 inflated values against Old JJCI and J&J through alleged  
14 indemnification obligations. As far as we know as a result of  
15 the failed vote, Imerys is no longer pursuing a plan, but I  
16 can't say that with certainty.

17 But nonetheless, having said all that, we believe that  
18 the commencement of this chapter 11 case, which would address a  
19 resolution of all the talc claims against LTL, presents the  
20 best and only viable alternative for fully addressing LTL's  
21 talc claims.

22 Then, your Honor, I want to talk briefly about the  
23 company's decision to file. The decision to file was made to  
24 permanently and equitably resolve all current and future talc-  
25 related claims. The company chose to file bankruptcy because,



# Exhibit 6

1 UNITED STATES BANKRUPTCY COURT  
2 WESTERN DISTRICT OF NORTH CAROLINA  
3 CHARLOTTE DIVISION

\*\*\*\*\*

4 In Re Chapter 11  
5 LTL MANAGEMENT LLC, Case No.  
Debtor. 21-30589(JCW)

\*\*\*\*\*

7 LTL MANAGEMENT LLC,  
8 Plaintiff,  
9 v. Adv. Pro. No.  
21-03032(JCW)

10 THOSE PARTIES LISTED ON  
APPENDIX A TO COMPLAINT and  
11 JOHN AND JANES DOES 1-1000,  
Defendants.

12 \*\*\*\*\*

13 Remote Deposition of SUSAN  
14 SCHIRGER-WARD, commencing at 1:03 p.m., on  
15 the 31st of October, 2021, before Maureen  
16 O'Connor Pollard, Registered Diplomate  
17 Reporter, Realtime Systems Administrator,  
18 Certified Shorthand Reporter.

19  
20  
21 - - -  
22

23 GOLKOW LITIGATION SERVICES  
877.370.DEPS  
24 deps@golkow.com

1 Q. Where are you located right  
2 now?

3 A. In New Jersey.

4 Q. Where do you live?

5 A. In Stewartsville.

6 Q. New Jersey?

7 A. That's correct.

8 Q. And how long have you lived in  
9 New Jersey?

10 A. Pretty much all my life. In  
11 Stewartsville, it will be almost 28 years.

12 Q. And did you attend college?

13 A. Yes, I did.

14 Q. Where did you attend college?

15 A. I went to Stockton College --  
16 it's now Stockton University -- in Pomona,  
17 New Jersey.

18 Q. And what year did you graduate?

19 A. In December of 1977.

20 Q. What's your degree in?

21 A. Biology.

22 Q. When did you first go to work  
23 for any company that has any relationship to  
24 Johnson & Johnson?

1           A.       Senior legal records  
2       coordinator.

3           Q.       And as of today, you remain in  
4       the position of senior legal records  
5       coordinator for Johnson & Johnson?

6           A.       Yes.

7           Q.       How many Johnson & Johnson  
8       employees are there in the legal records  
9       department?

10          A.       Well, currently, due to the  
11       pandemic situation, some contractors have  
12       been furloughed. There's -- there is one  
13       other person who is actually an agreement  
14       coordinator, and then my manager also has  
15       other employees. But specifically related to  
16       the work that I do, I would have one  
17       colleague.

18          Q.       Okay. And what's that person's  
19       name?

20          A.       Ellen Buechel-Whyte.

21          Q.       Okay. Allen --

22          A.       Ellen, E-L-L-E-N.

23          Q.       Ellen. And the last name,  
24       could you spell it?

1           A.       We have a records room where,  
2       as we had our files scanned and filed into  
3       the iManage system, the original paper  
4       documents, original signed documents, have  
5       been returned to our records room.

6                       We also have a vault, an area  
7       called the vault room.

8           Q.       Okay. The records room at  
9       Johnson & Johnson, is that located at J&J's  
10      headquarters in New Brunswick, New Jersey?

11          A.       Yes.

12          Q.       And is the records vault at  
13      Johnson & Johnson located at Johnson &  
14      Johnson's headquarters in New Brunswick,  
15      New Jersey?

16          A.       Yes.

17          Q.       Other than the records room and  
18      the vault, do you have any knowledge as to  
19      the location of any other paper records or  
20      original paper documents of Johnson & Johnson  
21      other than the records room and the vault?

22          A.       And the work -- my specific  
23      work area, which is shared by others, with  
24      others. Paper setter in transition, I should

# Exhibit 7

1 SUPERIOR COURT OF NEW JERSEY  
2 LAW DIVISION - MIDDLESEX COUNTY  
3 DOCKET NO. MID-1809-17AS  
4 APPELLATE DOCKET NO. \_\_\_\_\_  
5  
6 DOUGLAS AND ROSALYN BARDEN, )  
7 ) TRIAL  
8 Plaintiff, )  
9 )  
10 v. )  
11 ) (VOLUME 1 OF 2)  
12 BRENNTAG NORTH AMERICA, et al., )  
13 Defendants. )  
14 ----- )  
15 DAVID CHARLES ETHERIDGE AND )  
16 DARLENE PASTORE ETHERIDGE, ) MID-L-0932-17AS  
17 )  
18 Plaintiffs, )  
19 )  
20 v. )  
21 )  
22 BRENNTAG NORTH AMERICA, et al., )  
23 Defendants. )  
24 ----- )  
25 D'ANGELA McNEILL-GEORGE, )  
MID-L-7049-16AS  
Plaintiff, )  
v. )  
BRENNTAG NORTH AMERICA, et al., )  
Defendants. )  
----- )  
WILLIAM AND ELIZABETH RONNING, )  
MID-L-6040-17AS  
Plaintiffs, )  
v. )  
BRENNTAG NORTH AMERICA, et al., )  
Defendants. )  
Job No. NJ3446610

Page 2

1  
2 Place: Middlesex County Courthouse  
56 Paterson Street  
3 New Brunswick, New Jersey 08903  
4  
5 Date: Monday, July 22, 2019  
9:24 a.m.  
(Volume 1 of 2)  
(Pages 1 - 200)  
6  
7  
8  
9  
10  
11 Before:  
12 HON. ANA C. VISCOMI, J.S.C.,  
13  
14  
15  
16  
17 TRANSCRIPT ORDERED BY:  
18 MOSHE MAIMON ESQ.  
LEVY KONIGSBERG  
19  
20  
21  
22 SILVIA P. WAGE, CCR CRR  
PRIORITY ONE  
290 West Mount Pleasant Avenue  
23 Livingston, New Jersey 07039  
(718) 983-1234  
24 E-mail: Plsteno@veritext.com  
25

Page 3

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-and-  
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JOHN FLAHERTY, ESQ.  
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19 100 Mulberry Street  
Newark, New Jersey 07102  
20 Attorneys for Defendants Johnson & Johnson,  
and Johnson & Johnson Consumer, Inc.  
21  
22  
23  
24  
25

Page 4

I N D E X		
		PAGE
2	WITNESS: JOHN HOPKINS	
3	DIRECT EXAMINATION BY MR. PANATIER	12
E X H I B I T S		
5	NO.	DESCRIPTION
6	Plaintiff's Exhibit 2064	190
	Plaintiff's Exhibit 2304	199
7	Plaintiff's Exhibit 2345	121
	Plaintiff's Exhibit 2360	107
8	Plaintiff's Exhibit 2364	199
	Plaintiff's Exhibit 2367	199
9	Plaintiff's Exhibit 2368	199
	Plaintiff's Exhibit 2374	199
10	Plaintiff's Exhibit 2381	199
	Plaintiff's Exhibit 2382	199
11	Plaintiff's Exhibit 2385	199
	Plaintiff's Exhibit 2390	199
12	Plaintiff's Exhibit 2391	199
	Plaintiff's Exhibit 2393	199
13	Plaintiff's Exhibit 2403	199
	Plaintiff's Exhibit 2412	199
14	Plaintiff's Exhibit 2413	199
	Plaintiff's Exhibit 2434	199
15	Plaintiff's Exhibit 2594	111
	Plaintiff's Exhibit 2614	197
16	Plaintiff's Exhibit 2738	72
	Plaintiff's Exhibit 2836	90
17	Plaintiff's Exhibit 3162	118
	Plaintiff's Exhibit 3173	139
18	Plaintiff's Exhibit 3378	199
	Plaintiff's Exhibit 3624	148
19	Plaintiff's Exhibit 3695-14	82
	Plaintiff's Exhibit 3695-15	59
20	Plaintiff's Exhibit 3695-8	51
	Plaintiff's Exhibit 3695-22	199
21	Plaintiff's Exhibit 3695-23	161
	Plaintiff's Exhibit 3695-27	178
22		
23		
24		
25		

Page 5

1 THE COURT: Good morning, Dr.  
2 Hopkins.  
3 THE WITNESS: Good morning, your  
4 Honor.  
5 (Sidebar.)  
6 THE COURT: So we are at sidebar and  
7 we began argument on Friday. I think all the  
8 arguments were in relative to --  
9 (There is a discussion off the  
10 record.)  
11 THE COURT: I don't know. Was there  
12 additional argument that counsel wanted to make or  
13 are we done with argument? (INAUDIBLE.)  
14 MS. SULLIVAN: And just to emphasize,  
15 your Honor, Evidence Rule 701 and lay opinion from  
16 fact witnesses can be permitted, if it's consistent  
17 with your experience in product -- particularly, in  
18 product liability case.  
19 And, specifically, citing the  
20 Appellate Division's decision in Navarro v. George  
21 Koch & Sons, 512 -- I'm sorry, 211 N.J. Super. 558  
22 and, actually, the Court held it might be reversible  
23 to not permit that kind of testimony.  
24 MR. MAIMON: Just a moment, your  
25 Honor.



<p style="text-align: right;">Page 18</p> <p>1 A. They did, yes.</p> <p>2 Q. And they ran --</p> <p>3 A. Three or four years before.</p> <p>4 Q. Okay. And they ran that mine through</p> <p>5 a company called Windsor Minerals, right?</p> <p>6 A. The company that purchased the mine</p> <p>7 was a subsidiary of Johnson &amp; Johnson. It was</p> <p>8 purchased, I think, around about 1964, Windsor</p> <p>9 Minerals did. And it was not actually fully</p> <p>10 approved and set in motion as a baby talc source</p> <p>11 until the mid '60s, '67 and it was phased in and</p> <p>12 Italian talc was phased out. But the company that</p> <p>13 owned the mine was a subsidiary called Windsor</p> <p>14 Minerals.</p> <p>15 Q. Right. And Johnson &amp; Johnson used</p> <p>16 the Vermont sourced talc for its -- all of its</p> <p>17 domestic talc in the United States from,</p> <p>18 approximately, 1967 or so until 2003; is that</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. Alright. Now, there was some overlap</p> <p>22 with the Italian talc and the Vermont talc, correct?</p> <p>23 A. Yes. One was phased in and the other</p> <p>24 was phased out during the 1967, '68 time frame.</p> <p>25 Q. Okay. In 1980 there was a mine</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. And in 2012, we all know the Shower</p> <p>2 to Shower product, that was sold by Johnson &amp;</p> <p>3 Johnson to a company called Valeant, right?</p> <p>4 A. It was, yes.</p> <p>5 Q. So Johnson &amp; Johnson no longer owns</p> <p>6 the Shower to Shower product line, right?</p> <p>7 A. Not since 2012, no.</p> <p>8 Q. It, obviously, still owns Johnson's</p> <p>9 Baby Powder, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Johnson &amp; Johnson Corporate in New</p> <p>12 Brunswick made all health and safety policy</p> <p>13 decisions with regard to asbestos and talc products,</p> <p>14 correct?</p> <p>15 A. The -- yes, the company in New Jersey</p> <p>16 is the parent company for all the global companies</p> <p>17 made those decisions, yes.</p> <p>18 Q. And testing results between Johnson &amp;</p> <p>19 Johnson and, for instance, Johnson &amp; Johnson</p> <p>20 Consumer, Inc., which I'm just going to call JJCI,</p> <p>21 test results, health and safety information were</p> <p>22 freely exchanged between those two companies,</p> <p>23 correct?</p> <p>24 A. I've not seen any evidence that it</p> <p>25 was not. So, I guess, the answer is going to be,</p>
<p style="text-align: right;">Page 19</p> <p>1 strike in Vermont, correct?</p> <p>2 A. There was. And that was December</p> <p>3 1980 and the mine was closed, so for about three</p> <p>4 months until February '81.</p> <p>5 Q. Are you sure it wasn't --</p> <p>6 A. Sorry.</p> <p>7 Q. -- December 1979?</p> <p>8 A. Sorry. December 1979 there was a</p> <p>9 mine strike which ran into -- from 1980, January,</p> <p>10 February, it was sourced from Italy.</p> <p>11 Q. Right. And they went back to the</p> <p>12 00000 Italian Val Chisone talc?</p> <p>13 A. Which is the same talc that they were</p> <p>14 using in Europe at the same time, yes.</p> <p>15 Q. After 2003 all the talc that's been</p> <p>16 sourced for Johnson's Baby Powder and Shower to</p> <p>17 Shower sold here in the US is China, Guangxi,</p> <p>18 correct?</p> <p>19 A. There is a mine in China, the Guangxi</p> <p>20 mine, which is a, like a high grade cosmetic talc,</p> <p>21 yes.</p> <p>22 Q. Johnson &amp; Johnson owned the Vermont</p> <p>23 mine until 1989 when it sold it to a company called</p> <p>24 Cyprus, correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 21</p> <p>1 yes. But I've not seen evidence that anything was</p> <p>2 withheld.</p> <p>3 Q. Right. Because you wouldn't want</p> <p>4 Johnson &amp; Johnson getting health and safety</p> <p>5 information that was important to the products being</p> <p>6 made and sold by JJCI and not given to them,</p> <p>7 correct?</p> <p>8 A. Correct, yes. Like I say, I've not</p> <p>9 seen evidence that it was ever -- there was any ever</p> <p>10 data withheld.</p> <p>11 Q. In fact, the evidence you've seen is</p> <p>12 that any evidence -- any health and safety</p> <p>13 information that Johnson &amp; Johnson had was given to</p> <p>14 JJCI and vice versa, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Now, you have reviewed many thousands</p> <p>17 of documents, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And in this litigation, this talc</p> <p>20 asbestos litigation, you have reviewed, I think,</p> <p>21 you've told me, 10 to 15,000 documents?</p> <p>22 A. I guess it is, yes, yes.</p> <p>23 Q. Now, you know that Johnson &amp; Johnson</p> <p>24 has turned over around a million documents in this</p> <p>25 litigation, correct?</p>

# Exhibit 8

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2 any involvement in the creation of this company called  
3 royalty A and M LLC?

4 A. Yes, I knew it was being created in  
5 parallel with LTL.

6 Q. And what was your involvement in creating  
7 the royalty at this A and M LLC?

8 A. The same as LTL giving facts and  
9 information, this is the structure of an entity, how  
10 it is going to be call tall eyes had, what it's assets  
11 are going to be, providing advice what the accounting  
12 would, you know, look like.

13 Q. And I think you were asked this earlier,  
14 but you had no business relationship at all with North  
15 Carolina in the past, correct?

16 A. No.

17 Q. And you are not aware of these other  
18 individuals that are on the board of LTL having any  
19 relationship to North Carolina, correct?

20 MR. RASMUSSEN: Objection to the form,  
21 foundation.

22 BY THE WITNESS:

23 A. I'm not sure I know who the board members  
24 of LTL are.

1 ROUGH DRAFT/UNCERTIFIED TRANSCRIPT

2 BY MR. SATTERLEY:

3 Q. I mentioned them earlier, I think.

4 Russell Deyo, Robert Wuesthoff, Richard Dickinson?

5 A. I am not aware. I have no awareness of  
6 their relationships with the state, no.

7 Q. Did Mr. Kim talk to you about why North  
8 Carolina?

9 A. No.

10 Q. Did you speak with anybody at J&J or J&J  
11 Consumer about why North Carolina?

12 A. No.

13 MR. SATTERLEY: I think those are all of the  
14 questions that I am going to have for you today. I  
15 appreciate your time.

16 THE WITNESS: Thanks.

17 MR. RASMUSSEN: I have just a couple of  
18 questions for Mr. Lisman before we conclude, unless  
19 anybody else has -- does anybody else have questions?  
20 I hope not, but that was a pretty thorough examination  
21 by Mr. Satterley and Silverstein, so hopefully there  
22 aren't any more.

23 MR. SILVERSTEIN: I guess we left a few things  
24 off that you want to cover.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

<b>In re:</b>  <b>LTL MANAGEMENT LLC,<sup>1</sup></b>  <b>Debtor.</b>	) ) ) ) ) ) )	Chapter 11  Case No. 21-30589 (JCW)
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing **RESPONSE OF THE MESOTHELIOMA GROUP ON BEHALF OF CREDITORS IN SUPPORT OF MOTIONS OF BANKRUPTCY ADMINISTRATOR AND MDL PLAINTIFFS' STEERING COMMITTEE TO TRANSFER VENUE OF BANKRUPTCY CASE PURSUANT TO 28 U.S.C. § 1412 AND FED R. BANKR. P. 1014(a)(1) IN THE INTEREST OF JUSTICE OR FOR THE CONVENIENCE OF PARTIES** was filed electronically in accordance with the local rules and served electronically upon all parties registered for electronic service through the CM/ECF system.

Submitted this, the 5<sup>th</sup> day of November 2021.

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& BAILEY PLLC**

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<sup>1</sup> The last four digits of the Debtor's taxpayer identification number are 6622. The Debtor's address is 501 George Street, New Brunswick, New Jersey 08933.